

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In Re the Application of:

Sim, Gek-Kee
Yang, Shumin
Dreitz, Matthew J.
Wonderling, Ramani S.

U.S. Patent No.: 6,482,403 B1

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Serial No.: 09/451,527

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Atty. File No.: IM-2-C2

For: 'CANINE IL-13 IMMUNOREGULATORY
PROTEINS AND USES THEREOF'

) Group Art Unit: 1633

) Examiner: Kaushal, S

) DECLARATION OF
) RICHARD J. STERN

) Under (37 CFR §1.68)

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OFFICE OF PETITIONS

CERTIFICATE OF MAILING
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL, ADDRESSED TO MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450. THIS <u>25</u> DAY OF <u>February</u> 2004.
HESKA CORPORATION
By: <u>Susan Gordon</u> SUSAN GORDON

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

I, Richard J. Stern, declare the following:

1. I am a patent agent in the Intellectual Property Department of Heska Corporation, assignee of the above referenced patent application.

2. Gek-Kee Sim is currently listed as a co-inventor of the above-referenced patent application and a former employee of Heska Corporation.

3. Dr. Sim was employed at Heska Corporation from February 1, 1996 through August 25, 1998. The last known official addresses for Dr. Sim which Heska Corporation has on file are (1) 543 Franklin Street, Denver, Colorado 80218; (2) gk2463622@aol.com; and (3) simgk@aol.com. Heska Corporation also has a telephone number [(303) 321-8595] on file for Dr. Sim.

4. Dr. Sim is listed as an inventor on U.S. Patent No. 6,471,957 B1 and on U.S. Patent No. 6,482,403 B1. These patents also list Shumin Yang, Matthew J. Dreitz and Ramani S. Wonderling as inventors.

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5. On October 13, 2003, a package was sent by Certified Mail to Dr. Sim at the address listed in paragraph 3, informing her that changes needed to be made in the inventorship of the patents referenced in paragraph 4. The package contained a letter explaining the inventorship changes to be made to the patents listed in paragraph 4. Additionally, the package contained related documents to be executed by Dr. Sim. Similar packages were sent to all those listed as inventors on these two patents. A copy of the letter sent to Dr. Sim is attached as Exhibit A.

6. On October 15, the package described in paragraph 5 was delivered to the address listed in paragraph 3. The package was signed for by someone at that address and the Return Receipt is attached as Exhibit B.

7. On November 25, 2003, I sent an email message to Dr. Sim, using both email addresses listed in paragraph 3, detailing the inventorship issues and requesting she sign and return the related documents she had received from us in October. I also urged her to contact me if she had questions or needed more information. A copy of this email message is attached as Exhibit C.

8. On January 6, 2004, I sent an email message to Dr. Sim, again using both email addresses listed in paragraph 3. This email message was a repeat of the email message sent on November 25, 2003 and described in paragraph 7. A copy of the email message sent on January 6, 2004 is attached as exhibit D.

9. On January 6, 2004, shortly after sending the email message described in paragraph 8, I attempted to reach Dr. Sim by telephone. I was unable to reach Dr. Sim but did speak with a gentleman at that number who said he would pass a message to Dr. Sim. An email documenting that phone call is attached as Exhibit E.

10. On January 16, 2004, I sent an email message to Dr. Sim, again using both email addresses listed in paragraph 3. This email message was a repeat of the email message sent on November 25, 2003 and described in paragraph 7. This new email also stated this was the third time the content of the email had been sent. A copy of the email message sent on January 16, 2004 is attached as exhibit F.

11. On January 16, 2004, I again attempted to reach Dr. Sim by telephone. I did not reach Dr. Sim but spoke with the same gentleman mentioned in paragraph 9. He once again agreed to pass along a message to Dr. Sim. A copy of an email documenting this telephone call is attached as Exhibit G.

12. On January 23, 2004, I sent Dr. Sim an email message, again using both email addresses listed in paragraph 3. This email message explained this was the fourth and final time I would be attempting to contact her. It further explained that if we failed to hear from her, we would petition the USPTO to declare her an uncooperative party. The email also contained the text of the original email message sent to Dr. Sim on November 25, 2003. A copy of this email is attached as Exhibit H.